



22 CFR Part 42

[Public Notice: 11730]

RIN 1400-AE74

Visas: Diversity Immigrants

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State (“Department”) is removing from the Code of Federal Regulations amendments that were published in an interim final rule (“IFR”) on June 5, 2019, requiring principal entrants submitting an electronic diversity visa entry form to provide certain information, including the entrant’s unique serial or issuance number associated with the principal entrant’s valid, unexpired passport or claim an exemption to the passport requirement. This document responds to a ruling of the U.S. District Court for the District of Columbia, which vacated the rule.

DATES: The final rule is effective [*INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Andrea Lage, Acting Senior Regulatory Coordinator, Office of Visa Services, Bureau of Consular Affairs, Department of State, 600 19th St. NW, Washington, DC 20006, (202) 485-7586.

SUPPLEMENTARY INFORMATION: On June 5, 2019, the Department issued an IFR titled “Visas: Diversity Immigrants” in the *Federal Register* (84 FR 25989). The IFR amended Department regulations at 22 CFR 42.33(b)(1) to require a Diversity Visa (“DV”) program entrant to provide on the electronic DV entry form the unique serial or issuance number associated with that entrant’s valid, unexpired passport, as well as the passport’s country or authority of issuance, and its expiration date, unless the entrant claimed a valid passport exemption pursuant to 22 CFR 42.2(d), (e), or (g)(2). The IFR also clarified and amended its

regulation at 22 CFR 42.33(b)(1) to notify entrants that failure to accurately include any information required by the regulation would result in mandatory disqualification for that selection year.

On February 4, 2022, the District Court vacated the IFR. *E.B. v. U.S. Department of State*, No. 19-2856 (D.D.C. Feb. 4, 2022). To comply with the District Court’s ruling, the Department is removing the regulatory changes promulgated by the IFR. This rule also makes a technical correction to a punctuation mark in 22 CFR 42.33(b)(1)(vii).

Regulatory Analyses

The regulatory analyses contained in the IFR are adopted herein by reference, as supplemented by the following.

Administrative Procedure Act

This rule is not subject to the requirement under the Administrative Procedure Act (APA) to provide notice-and-comment, because it falls under the good cause exception, 5 U.S.C. 553(b)(B). The good cause exception is satisfied when notice and comment is “impracticable, unnecessary, or contrary to the public interest.” *Id.* This rule is a necessary administrative step to implement the District Court’s order vacating the IFR. Additionally, because this rule implements a court order already in effect, the Department has good cause to publish the rule effective immediately and without a notice and comment period under 5 U.S.C. 553(d)(3).

Congressional Review Act

This is not a major rule as defined by 5 U.S.C. 804.

Executive Orders 12866

The Office of Information and Regulatory Affairs has determined that this is a significant, though not economically significant, regulatory action under Section 3(f) of Executive Order 12866.

List of Subjects in 22 CFR Part 42

Immigration, Passports and visas.

Accordingly, for the reasons stated in the preamble, the Department amends 22 CFR part 42 as follows:

**PART 42 - VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE
IMMIGRATION AND NATIONALITY ACT, AS AMENDED**

1. The authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104 and 1182; Pub. L. 105-277, 112 Stat. 2681; Pub. L. 108-449, 118 Stat. 3469; The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105-51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); 42 U.S.C. 14901-14954 (Pub. L. 106-279, 114 Stat. 825); 8 U.S.C. 1101 (Pub. L. 111-287, 124 Stat. 3058); 8 U.S.C. 1154 (Pub. L. 109-162, 119 Stat. 2960); 8 U.S.C. 1201 (Pub. L. 114-70, 129 Stat. 561).

2. Amend § 42.33 by:

- a. Revising paragraph (b)(1)(vii); and
- b. Removing paragraphs (b)(1)(viii) and (ix).

The revision reads as follows:

§ 42.33 Diversity immigrants.

* * * * *

(b) * * *

(1) * * *

(vii) The location of the consular office nearest to the petitioner's current residence or, if in the United States, nearest to the petitioner's last foreign residence prior to entry into the United States.

Rena Bitter,

Assistant Secretary,

Consular Affairs,

Department of State.

Billing Code 4710-06

[FR Doc. 2022-12514 Filed: 6/9/2022 8:45 am; Publication Date: 6/10/2022]